

109TH CONGRESS  
1ST SESSION

# S. 224

To extend the period for COBRA coverage for victims of the terrorist attacks of September 11, 2001.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 1, 2005

Mr. KENNEDY (for himself, Mr. CORZINE, and Mr. LAUTENBERG) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To extend the period for COBRA coverage for victims of the terrorist attacks of September 11, 2001.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Continuing Care for  
5 Recovering Families Act”.

6 **SEC. 2. EXTENSION OF COBRA COVERAGE PERIOD FOR**  
7 **CERTAIN INDIVIDUALS.**

8 (a) ERISA AMENDMENT.—Section 605 of the Em-  
9 ployee Retirement Income Security Act of 1974 (29

1 U.S.C. 1165) is amended by adding at the end the fol-  
 2 lowing:

3 “(c) TEMPORARY EXTENSION OF COBRA ELECTION  
 4 AND COVERAGE PERIOD FOR VICTIMS OF TERRORIST AT-  
 5 TACKS.—

6 “(1) IN GENERAL.—In the case of an eligible  
 7 individual and notwithstanding subsection (a), such  
 8 individual may elect continuation coverage under  
 9 this part during the 120-day period that begins on  
 10 the later of—

11 “(A) the date of enactment of the Con-  
 12 tinuing Care for Recovering Families Act; or

13 “(B) the date on which the individual ex-  
 14periences the terrorism-related loss of coverage.

15 “(2) COMMENCEMENT OF COVERAGE; NO  
 16 REACH-BACK.—Any continuation coverage elected by  
 17 an eligible individual under paragraph (1) shall com-  
 18mence at the beginning of the 120-day election pe-  
 19riod described in such paragraph and shall not in-  
 20clude any period prior to such 120-day election pe-  
 21riod. In no event shall the maximum period required  
 22under section 602(2)(A) be less than the period dur-  
 23ing which the individual is an eligible individual.

1           “(3) PREEXISTING CONDITIONS.—With respect  
 2           to an individual who elects continuation coverage  
 3           pursuant to paragraph (1), the period—

4                   “(A) beginning on the date of the ter-  
 5                   rorism-related loss of coverage, and

6                   “(B) ending on the first day of the 120-  
 7                   day election period described in paragraph (1),  
 8                   shall be disregarded for purposes of deter-  
 9                   mining the 63-day periods referred to in section  
 10                  701(c)(2), section 2701(c)(2) of the Public  
 11                  Health Service Act, and section 9801(c)(2) of  
 12                  the Internal Revenue Code of 1986.

13           “(4) DEFINITIONS.—For purposes of this sub-  
 14           section:

15                   “(A) ELIGIBLE INDIVIDUAL.—The term  
 16                   ‘eligible individual’ means an individual who—

17                           “(i)(I) is the child of an individual de-  
 18                           scribed in section 405(c)(2) of the Sep-  
 19                           tember 11th Victim Compensation Fund of  
 20                           2001; or

21                           “(II) was the spouse of an individual  
 22                           described in section 405(c)(2) of the Sep-  
 23                           tember 11th Victim Compensation Fund of  
 24                           2001, on September 11, 2001;

1 “(ii) has experienced a terrorism-re-  
 2 lated loss of coverage; and

3 “(iii) is not otherwise entitled to bene-  
 4 fits, or enrolled, under part A of title  
 5 XVIII of the Social Security Act or en-  
 6 rolled under part B of such title.

7 “(B) TERRORISM-RELATED LOSS OF COV-  
 8 ERAGE.—The term ‘terrorism-related loss of  
 9 coverage’ means, with respect to an eligible in-  
 10 dividual, the loss of health benefits coverage as-  
 11 sociated with the death, injury, or loss of em-  
 12 ployment of an individual described in section  
 13 405(c)(2) of the September 11th Victim Com-  
 14 pensation Fund of 2001.”.

15 (b) PHSA AMENDMENT.—Section 2205 of the Public  
 16 Health Service Act (42 U.S.C. 300bb–5) is amended by  
 17 adding at the end the following:

18 “(c) TEMPORARY EXTENSION OF COBRA ELECTION  
 19 AND COVERAGE PERIOD FOR VICTIMS OF TERRORIST AT-  
 20 TACKS.—

21 “(1) IN GENERAL.—In the case of an eligible  
 22 individual and notwithstanding subsection (a), such  
 23 individual may elect continuation coverage under  
 24 this title during the 120-day period that begins on  
 25 the later of—

1           “(A) the date of enactment of the Con-  
2           tinuing Care for Recovering Families Act; or

3           “(B) the date on which the individual ex-  
4           periences the terrorism-related loss of coverage.

5           “(2) COMMENCEMENT OF COVERAGE; NO  
6           REACH-BACK.—Any continuation coverage elected by  
7           an eligible individual under paragraph (1) shall com-  
8           mence at the beginning of the 120-day election pe-  
9           riod described in such paragraph and shall not in-  
10          clude any period prior to such 120-day election pe-  
11          riod. In no event shall the maximum period required  
12          under section 2202(2)(A) be less than the period  
13          during which the individual is an eligible individual.

14          “(3) PREEXISTING CONDITIONS.—With respect  
15          to an individual who elects continuation coverage  
16          pursuant to paragraph (1), the period—

17               “(A) beginning on the date of the ter-  
18               rorism-related loss of coverage, and

19               “(B) ending on the first day of the 120-  
20               day election period described in paragraph (1),  
21               shall be disregarded for purposes of deter-  
22               mining the 63-day periods referred to in section  
23               2701(c)(2), section 701(c)(2) of the Employee  
24               Retirement Income Security Act of 1974, and

1           section 9801(c)(2) of the Internal Revenue  
2           Code of 1986.

3           “(4) DEFINITIONS.—For purposes of this sub-  
4           section:

5                   “(A) ELIGIBLE INDIVIDUAL.—The term  
6           ‘eligible individual’ means an individual who—

7                           “(i)(I) is the child of an individual de-  
8                           scribed in section 405(c)(2) of the Sep-  
9                           tember 11th Victim Compensation Fund of  
10                          2001; or

11                           “(II) was the spouse of an individual  
12                          described in section 405(c)(2) of the Sep-  
13                          tember 11th Victim Compensation Fund of  
14                          2001, on September 11, 2001;

15                           “(ii) has experienced a terrorism-re-  
16                          lated loss of coverage; and

17                           “(iii) is not otherwise entitled to bene-  
18                          fits, or enrolled, under part A of title  
19                          XVIII of the Social Security Act or en-  
20                          rolled under part B of such title.

21                   “(B) TERRORISM-RELATED LOSS OF COV-  
22           ERAGE.—The term ‘terrorism-related loss of  
23           coverage’ means, with respect to an eligible in-  
24           dividual, the loss of health benefits coverage as-  
25           sociated with the death, injury, or loss of em-

1           ployment of an individual described in section  
 2           405(c)(2) of the September 11th Victim Com-  
 3           pensation Fund of 2001.”.

4           (c) IRC AMENDMENTS.—Paragraph (5) of section  
 5   4980B(f) of the Internal Revenue Code of 1986 (relating  
 6   to election) is amended by adding at the end the following:

7                   “(D) TEMPORARY EXTENSION OF COBRA  
 8           ELECTION AND COVERAGE PERIOD FOR VICTIMS  
 9           OF TERRORIST ATTACKS.—

10                   “(i) IN GENERAL.—In the case of an  
 11           eligible individual and notwithstanding  
 12           paragraph (1), such individual may elect  
 13           continuation coverage under this title dur-  
 14           ing the 120-day period that begins on the  
 15           later of—

16                   “(I) the date of enactment of the  
 17           Continuing Care for Recovering Fami-  
 18           lies Act; or

19                   “(II) the date on which the indi-  
 20           vidual experiences the terrorism-re-  
 21           lated loss of coverage.

22                   “(ii) COMMENCEMENT OF COVERAGE;  
 23           NO REACH-BACK.—Any continuation cov-  
 24           erage elected by an eligible individual  
 25           under clause (i) shall commence at the be-

ginning of the 120-day election period described in such clause and shall not include any period prior to such 120-day election period. In no event shall the maximum period required under paragraph (2)(B)(i) be less than the period during which the individual is an eligible individual.

“(iii) PREEXISTING CONDITIONS.— With respect to an individual who elects continuation coverage pursuant to clause (i), the period—

“(I) beginning on the date of the terrorism-related loss of coverage, and

“(II) ending on the first day of the 120-day election period described in clause (i), shall be disregarded for purposes of determining the 63-day periods referred to in section 9801(c)(2), section 701(c)(2) of the Employee Retirement Income Security Act of 1974, and section 2701(c)(2) of the Public Health Service Act.

“(iv) DEFINITIONS.—For purposes of this subparagraph:



1 “(I) ELIGIBLE INDIVIDUAL.—

2 The term ‘eligible individual’ means  
3 an individual who—

4 “(aa)(AA) is the child of an  
5 individual described in section  
6 405(c)(2) of the September 11th  
7 Victim Compensation Fund of  
8 2001; or

9 “(BB) was the spouse of an  
10 individual described in section  
11 405(c)(2) of the September 11th  
12 Victim Compensation Fund of  
13 2001, on September 11, 2001;

14 “(bb) has experienced a ter-  
15 rorism-related loss of coverage;  
16 and

17 “(cc) is not otherwise enti-  
18 tled to benefits, or enrolled,  
19 under part A of title XVIII of  
20 the Social Security Act or en-  
21 rolled under part B of such title.

22 “(II) TERRORISM-RELATED LOSS  
23 OF COVERAGE.—The term ‘terrorism-  
24 related loss of coverage’ means, with  
25 respect to an eligible individual, the

1           loss of health benefits coverage associ-  
2           ated with the death, injury, or loss of  
3           employment of an individual described  
4           in section 405(c)(2) of the September  
5           11th Victim Compensation Fund of  
6           2001.”.

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